



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENTS AND APPEALS AND
INTERFERENCES

In re Application of:

HAMILTON DOREST Group Art Unit 3634

Serial No. 09/714,711 Examiner: BLAIR M. JOHNSON

Filed: November 17, 2000 Appeal No. _____

Commissioner of Patents and Trademarks
Washington, D.C. 20231

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BRIEF OF APPLICANT

Applicant **HAMILTON DOREST** has filed a timely Notice of Appeal from the action of the Primary Examiner in finally rejecting all the claims in the Application. The brief is being filed under the provision of 37 C.F.R. 1.192. The filing fee of \$160.00 is attached.

THE CLAIMS

1. A ventilation apparatus for mounting in a garage door including:
 - a rectangular shaped base support member having an opening formed therein;
 - a first rectangular shaped tracking member having an opening formed therein, aligned in the first portions of the opening in the base support member;
 - a first transparent member coupled in the opening in the first tracking member;
 - a second rectangular shaped tracking member having an opening formed therein aligned in first and second portions of the opening in the base support member adjacent the first tracking member;
 - a second transparent member mounted for slidable movement in the opening in the second tracking member so that the second transparent member can be moved to a position so

that the second portions of the opening in the base support member are covered and can be moved so that the second portions of the opening in the base support member are open;

a plurality of predetermined spaced apertures formed in the rectangular shaped base support member for aligning and attaching the rectangular shaped base support member to an upper most panel of the garage door; and

a plurality of fastening members one of the plurality to be mounted in a predetermined one of the spaced apertures in the rectangular shaped base support member for attaching the rectangular shaped base support member to the uppermost panel of the garage door.

2. A ventilation apparatus as defined in Claim 1 further including a means supported in the opening in the base support member for covering the first and second transparent members.

3. A ventilation apparatus as defined in Claim 2 wherein the base support member includes:

a first pair of spaced aligned horizontally extending members;

a first pair of spaced aligned vertically extending members, one of the vertically extending members being coupled between each end portion of the pair of horizontally extending members so that the opening in the base support member is formed therebetween; and

an intermediate vertically extending member coupled between the pair of spaced horizontally extending members so that the opening formed between the pair of horizontally extending and vertically extending members is provided with a first and a second portion.

4. A ventilation apparatus as defined in Claim 3 wherein the base support member further includes:

a second pair of spaced aligned horizontally extending members, each one of the second pair of horizontally extending members being perpendicularly coupled to one of the first pair of horizontally extending members; and

a second pair of spaced vertically extending members, each one of the second pair of vertically extending members being perpendicularly coupled to one of the first pair of vertically extending members.

5. A ventilation apparatus as defined in Claim 2 wherein the first tracking member includes:

a first pair of spaced aligned horizontally extending tracks each one of the tracks being coupled to one of the second horizontally extending members; and

a first pair of spaced aligned vertically extending tracks one of the vertically extending tracks being coupled between each outermost end portion of the pair of horizontally extending tracks on an adjacent one of the second pair of spaced vertically extending members.

6. A ventilation apparatus as defined in Claim 5 wherein the first transparent member includes a piece of Plexiglas.

7. A ventilation apparatus as defined in Claim 6 wherein the second track member includes:

a second pair of spaced aligned horizontally extending tracks aligned adjacent to the first pair of horizontally extending tracks; and

a second pair of spaced aligned vertically extending tracks aligned adjacent to the first pair of vertically extending tracks, one of the second vertically extending tracks being coupled between each outermost end portions of the second pair of horizontally extending tracks.

8. A ventilation apparatus as defined in Claim 7 wherein the second transparent member includes a piece of Plexiglas.

9. A ventilation apparatus as defined in Claim 8 wherein the covering means includes a screen.

10. A ventilation apparatus for mounting in a garage door including:

a rectangular shaped base support member having an opening formed therein, the base support member including a first pair of spaced aligned horizontally extending members;

a first pair of spaced aligned vertically extending members, one of the vertically extending members being coupled between each end portion of the pair of horizontally extending members so that the opening in the base support member is formed therebetween;

an intermediate vertically extending member coupled between intermediate portions of the pair of spaced horizontally extending members so that the opening formed therebetween the pair of horizontally extending and vertically extending members is provided with a first and a second portion;

a second pair of spaced aligned horizontally extending members, each one of the second pair of horizontally extending members being perpendicularly coupled to one of the first pair of horizontally extending members;

a second pair of spaced vertically extending members, each one of the second pair of vertically extending members being perpendicularly coupled to one of the first pair of vertically extending members;

a first rectangular shaped tracking member having an opening formed therein, aligned in the opening in the base support member;

a first transparent member slidably coupled in the opening in the first tracking member so that the first transparent member can be moved to a position so first portions of the opening in the base support member are closed and can be moved to another position so that the opening is open;

a second rectangular shaped tracking member having an opening formed therein aligned in the opening in the base support member adjacent the first track member;

a second transparent member mounted for slidable movement in the opening in the second tracking member so that the second member can be moved to a position to cover the second portions of the opening in the base support member and so that the second transparent member can be moved to a position so that the second portions of the opening in the base support member is open;

a plurality of predetermined spaced apertures formed in the rectangular shaped base support member for aligning and attaching the rectangular shaped base support member to an upper most panel of the garage door; and

a plurality of fastening members one of the plurality to be mounted in a predetermined one of the spaced apertures in the rectangular shaped base support member for attaching the rectangular shaped base support member to the uppermost panel of the garage door.

13. A ventilation apparatus as defined in Claim 10 wherein the first tracking member includes:

a first pair of spaced aligned horizontally extending tracks each one of the tracks being coupled to one of the second horizontally extending members; and

a first pair of spaced aligned vertically extending tracks one of the vertically extending tracks being coupled between each outermost end portion of the pair of horizontally extending tracks on an adjacent one of the second pair of spaced vertically extending members.

14. A ventilation apparatus as defined in Claim 13 wherein the first transparent member includes a piece of Plexiglas.

15. A ventilation apparatus as defined in Claim 14 wherein the second track member includes:

a second pair of spaced aligned horizontally extending tracks aligned adjacent to the first pair of horizontally extending tracks; and

a second pair of spaced aligned vertically extending tracks aligned adjacent to the first pair of vertically extending tracks, one of the second vertically extending tracks being coupled between each outermost end portions of the second pair of horizontally extending tracks.

16. A ventilation apparatus as defined in Claim 15 wherein the second transparent member includes a piece of Plexiglas.

17. A ventilation apparatus as defined in Claim 16 further including a covering means for covering the transparent members.

18. A ventilation apparatus as defined in Claim 17 wherein the covering means includes a screen.

THE INVENTION

This invention relates to a garage door and a garage door ventilation apparatus to be used on the garage door to facilitate air flow inside the garage area when the door is closed. The garage area of a home is a very important and popular area of the home for various reasons. It is very popular for use as a work area for working on automobiles, working on household projects and other such activities. It is also popular for use as a recreational area. In these kinds of activities it is often desirable to have the garage area closed in by keeping the door down. However keeping the garage door down can often make it uncomfortable while the desired activity is being performed.

Figures 1 , 2, 3,4, 5 and 6 illustrate the garage door ventilation apparatus of this invention.

A ventilation apparatus 26 is provided for mounting in a garage 10 door. The ventilation apparatus is provided with a rectangular shaped base support member 30 having an opening 40 formed therein. A first rectangular shaped tracking member 54 is aligned in first portions of the opening 40 in the base support member 30. The ventilation apparatus 26 is also provided with a first transparent member 66 which is coupled in the first tracking member 54. A second rectangular shaped tracking member 56 is aligned in second portions of the opening 40 in the base support member 30. A second transparent member 82 is mounted for slidable movement in the second tracking member 56. This allows the second transparent member 82 to be moved to a position to cover the second portions of the opening 40 in the base member 30 as well as be moved to a position so that the second portions of the opening in the base member are uncovered.

THE REJECTION

Claims 1 through 10 and 13 through 18 have been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,924,628 issued to J. A. Ruby et al.

THE ISSUE

Issue 1.

Whether it would have been obvious at the time of Applicant's invention for one of ordinary skill in the art to modify Ruby to teach the same garage door ventilation apparatus as the invention claimed in Applicant's Claims 1 through 9.

Issue 2.

Whether it would have been obvious at the time of Applicant's invention for one of ordinary skill in the art to modify Ruby to teach the same garage door ventilation apparatus as the invention claimed in Applicant's Claims 10 and 13 through 18.

ARGUMENT

Argument on Issue 1.

Issue 1 Restated.

Whether it would have been obvious at the time of Applicant's invention for one of ordinary skill in the art to modify Ruby to teach the same garage door ventilation apparatus as the invention claimed in Applicant's Claims 1 through 9.

James A. Ruby et al in U.S. Patent 4,924,628 discloses a prefabricated slider window system with lift-out windows. The window system of this invention includes a main frame having an opening formed therein. Windows are mounted in the opening of the main frame for horizontal sliding movement. The main frame includes a bottom frame portion having channels for guiding the bottom side of the windows and a top frame portion having channels for guiding the top sides of the windows.

The Examiner contends that elements 82, 84, 118 and 120 of the Ruby patent are elements that define tracks which are aligned in portions of an opening in Ruby and that this structure teaches Applicant's invention. This is not the case. There is no teaching or suggestion in the Ruby patent of a ventilation apparatus including a first rectangular shaped tracking member having an opening formed therein which is aligned in only first portions of a base support member opening as disclosed in Applicant's invention. The elements 82, 84, 118, and 120 of the Ruby patent cover the entire opening in the Ruby base support member. This is a structurally different tracking arrangement than is taught and disclosed by Applicant's invention.

Additionally, Ruby teaches an apparatus having sliding transparent members. There is no teaching or suggestion in the Ruby patent of a first transparent member which is coupled in the opening in the first tracking member as taught in Applicant's invention.

The Examiner also contends it is would have been obvious for one skilled in the art to provide apertures for the nailing fins disclosed in Ruby to go through in order to facilitate the attaching of the window of the Ruby patent to a garage door.

There is no teaching or suggestion in the Ruby patent of a plurality of predetermined spaced apertures formed in the rectangular shaped base support member for aligning and facilitating the attaching of the rectangular shaped base support member to an upper most panel of the garage door as taught in Applicant's invention. Without such a teaching how can the Examiner contend it would be obvious. There is also no teaching or suggestion in the Ruby patent of a plurality of fastening members with each one of the plurality being mounted in a predetermined one of the spaced apertures in the rectangular shaped base support member for attaching the rectangular shaped base support member to the uppermost panel of the garage door as taught by Applicant. Instead the Ruby patent teaches a window having a pair of slots formed on the outdoor side of the window for mounting the window to a building using nailing fins. Clearly Applicant's invention is a totally different structure than the invention disclosed in the Ruby patent. Still further there is no teaching or suggestion in the Ruby patent of a ventilation apparatus including a means supported in the opening in the base support member for covering the first and second transparent members as is taught in Applicant's invention.

The Examiner contends the frame member 34 of the Ruby patent constitutes an intermediate vertically extending member as taught in Applicant's invention. There is no teaching or suggestion in Ruby of an intermediate vertically extending member coupled between

portions of the pair of spaced horizontally extending members so that the opening formed between the pair of horizontally extending and vertically extending members is provided with a first and a second portion. The frame member 34 in the Ruby patent is the right side of window sash 26 in which glazing unit 24 of window 20 is mounted. It is not an intermediate vertically extending member as is taught in Applicant's invention.

The Examiner also contends that elements 12, 14, 16 and 18 of the Ruby patent discloses the base support member of Applicant's invention. The Examiner further contends that elements 12, 14, 16 and 18 of the Ruby patent have numerous flanges, sides, etc., which meet the limitations of various horizontal, vertical and perpendicularly oriented members as taught in Applicant's invention. The Ruby patent discloses one pair of horizontally extending members 12 and 14 and one pair of vertically extending members 16 and 18 which form the base support member in Ruby. However there is no teaching or suggestion in the Ruby patent of a base support member having a second pair of spaced aligned horizontally extending members, with each one of the second pair of horizontally extending members being perpendicularly coupled to one of the first pair of horizontally extending members, and a second pair of spaced vertically extending members, each one of the second pair of vertically extending members being perpendicularly coupled to one of the first pair of vertically extending members as taught in Applicant's invention.

Still further the Ruby patent does not disclose the structure taught in Applicant's invention in that there is no teaching or suggestion of a ventilation apparatus wherein the first tracking member includes a first pair of spaced aligned horizontally extending tracks with each one of the tracks being coupled to one of the second horizontally extending members. There is also no teaching or suggestion of a first pair of spaced aligned vertically extending tracks in the

first tracking member with one of the vertically extending tracks being coupled between each outermost end portion of the pair of horizontally extending tracks on an adjacent one of the second pair of spaced vertically extending members. Clearly Applicant's claims are distinguishable over the Ruby patent.

Argument on Issue 2.

Issue 2 Restated.

Whether it would have been obvious at the time of Applicant's invention for one of ordinary skill in the art to modify Ruby to teach the same garage door ventilation apparatus as the invention claimed in Applicant's Claims 10 and 13 through 18.

The Examiner contends that elements 12, 14, 16 and 18 of the Ruby patent disclose the base support member of Applicant's invention. The Ruby patent discloses one pair of horizontally extending members 12 and 14 and one pair of vertically extending members 16 and 18 which form the base support member of Ruby. However there is no teaching or suggestion in the Ruby patent of a base support member having a second pair of spaced aligned horizontally extending members, with each one of the second pair of horizontally extending members being perpendicularly coupled to one of the first pair of horizontally extending members, and a second pair of spaced vertically extending members, each one of the second pair of vertically extending members being perpendicularly coupled to one of the first pair of vertically extending members as taught in Applicant's invention.

There is no teaching or suggestion in the Ruby patent of a plurality of predetermined spaced apertures formed in the rectangular shaped base support member for aligning and facilitating the attaching of the rectangular shaped base support member to an upper most panel of the garage door as taught in Applicant's invention. There is also no teaching or suggestion in

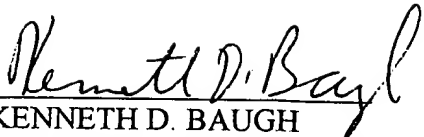
the Ruby patent of a plurality of fastening members with each one of the plurality being mounted in a predetermined one of the spaced apertures in the rectangular shaped base support member for attaching the rectangular shaped base support member to the uppermost panel of the garage door as taught by Applicant. Instead the Ruby patent teaches a window having a pair of slots formed on the outdoor side of the window for mounting the window to a building using nailing fins.

Additionally, the Ruby patent does not disclose the structure taught in Applicant's invention in that there is no teaching or suggestion of a ventilation apparatus wherein the first tracking member includes a first pair of spaced aligned horizontally extending tracks with each one of the tracks being coupled to one of the second horizontally extending members. There is also no teaching or suggestion of a first pair of spaced aligned vertically extending tracks in the first tracking member with one of the vertically extending tracks being coupled between each outermost end portion of the pair of horizontally extending tracks on an adjacent one of the second pair of spaced vertically extending members.

Clearly Applicant's invention is a totally different structure than the invention disclosed in the Ruby patent. Clearly Applicant's claims are distinguishable over the Ruby patent.

CONCLUSION

Clearly as stated in the previous arguments, the Ruby patent does not teach or suggest Applicant's invention. Applicant's claims are distinguishable over the Ruby patent. For these reasons it is submitted that the Applicant's claims should be allowed and this application should be allowed.


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